

STAPPA / ALAPCO

STATE AND TERRITORIAL  
AIR POLLUTION PROGRAM  
ADMINISTRATORS

ASSOCIATION OF  
LOCAL AIR POLLUTION  
CONTROL OFFICIALS

May 8, 2006

S. WILLIAM BECKER  
EXECUTIVE DIRECTOR

U.S. Environmental Protection Agency  
EPA Docket Center (6102T)  
Attention: Docket ID No. EPA-HQ-OAR-2006-0089  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

To Whom It May Concern:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), thank you for this opportunity to comment on the proposed rule on the *Treatment of Corn Milling Facilities Under the "Major Emitting Facility" Definition*, as published in the *Federal Register* on March 9, 2006 (71 *Federal Register* 12240). STAPPA and ALAPCO have significant concerns with this proposed rule and with the potential for it to impede state and local efforts to ensure adequate protection of public health.

EPA offers two options in this proposal. Under Option 1, EPA would revise the definition of "chemical process plants" as it applies to three key Clean Air Act programs – 1) the Prevention of Significant Deterioration (PSD) permitting programs, 2) the New Source Review (NSR) permitting program and 3) the Title V operating permit program – to exclude corn milling facilities that produce ethanol for fuel. Such facilities would instead be treated as corn milling facilities that produce ethanol for human consumption and, thus be subject to a 250-ton-per-year (tpy) emissions threshold for the PSD permitting program, versus the current 100-tpy threshold for ethanol fuel production facilities. Option 1 would also exempt ethanol fuel production facilities from the requirement to count fugitive emissions when determining if they exceed the emissions threshold for the PSD, NSR or Title V operating permit programs. Under Option 2, EPA would retain the current distinction between corn milling facilities that produce ethanol fuel and those that produce ethanol for human consumption, as well as the associated permitting requirements for each. EPA expresses in the proposed rule its preference for Option 1.

STAPPA and ALAPCO are very concerned by EPA's proposed Option 1 because it will allow – and, in fact, invite – substantial increases in emissions, and interfere not only with efforts to attain and maintain the health-based National Ambient Air Quality Standards (NAAQS), but also with compliance with increments under the PSD program.

By allowing corn milling facilities that produce ethanol to avoid the current major source threshold of 100 tpy and, instead increase emissions up to a new threshold of 250 tpy, it is unlikely that these facilities will ever trigger major source requirements – the installation of modern pollution controls (Best Available Control Technology or Lowest Achievable Emissions Rate) and an analysis of air quality. Moreover, in allowing ethanol fuel producers to exclude fugitive dust emissions in determining if they are above the emissions thresholds that trigger NSR permitting requirements, the proposed rule, if finalized, will increase significantly the number of ethanol fuel facilities that need not install pollution control equipment.

In addition, even current minor sources – under the existing 100-tpy threshold, *including* fugitive emissions – are known to contribute significantly to potential violations of the NAAQS. Permit data from STAPPA and ALAPCO members show that emissions from some ethanol fuel production facilities nearly exceed the 24-hour PM<sub>10</sub> standard and, in some cases, are close to violating the 24-hour PM<sub>10</sub> increment.

Our members indicate that ethanol fuel facilities design around the PSD threshold. If EPA finalizes Option 1, facilities will very likely design around the new, less restrictive limits, resulting in degraded air quality and seriously compromised protection of public health. In fact, we are concerned that promulgation of Option 1 will result in allegations of an unequal playing field by ethanol production facilities that have designed their facilities in order to maintain emissions below 100 tons per year. Increasing the major source threshold to 250 tons per year will not only enable future facilities to avoid constructing facilities that minimize emissions, but may act as an incentive for controlled facilities to petition our agencies to remove control equipment in order to level the playing field.

EPA itself has pointed out the health and environmental problems created by ethanol production, and should heed its own prior conclusions in deciding whether to relax the emissions thresholds for this industry sector. Specifically, EPA undertook an enforcement initiative against Cargill Corporation because a large number of ethanol plants were creating serious air quality problems. In the September 1, 2005 press release announcing the Cargill settlement agreement, U.S. EPA stated, “[w]ith the lodging of today’s consent decree, 81 percent of uncontrolled ethanol production capacity will now be under settlement agreements to install air pollution control technologies to reduce emissions. The new technology standards established by this initiative apply to all ethanol plants now under construction.”

The press release noted as well that, “Cargill’s corn processing plants are significant sources of volatile organic compounds (VOC’s) and carbon monoxide (CO). In addition to contributing to ground-level ozone (smog), VOC’s can cause serious health problems such as cancer and other effects” and “this agreement will improve the environment and at the same time create a level playing field in the industry.”

Moreover, in 2002, U.S. EPA announced settlements with 12 different ethanol plants for NSR violations. The initial investigation of these cases began with complaints

about odors. Subsequent emissions testing uncovered the extent of excess emissions from these facilities, which included hazardous air pollutants as well as ozone, carbon monoxide, and particulates.

In fact, EPA’s proposed rule fails to address the issue of toxic emissions from ethanol fuel plants. In order to denature ethanol intended for fuel, various toxic substances are added, such as gasoline (typically 2-5 per cent), a constituent of which is benzene. Other possible additives are methanol, methyl isobutyl ketone, methyl ethyl ketone, and isopropanol, depending on the intended use of the ethanol. Several of these additive substances are classified as hazardous air pollutants (HAPs). Therefore, in addition to the increase in criteria pollutant emissions that will result from the finalization of EPA’s proposed Option 1, this revision will also result in the increase of HAP emissions. EPA must address the increases in HAP emissions that will be attributable to adoption of this option.

Compounding our concerns even further is the fact that national production of ethanol fuel is rapidly expanding. In its *Ethanol Industry Outlook 2006*, the Renewable Fuels Association reports the following ethanol production capacity by state. This information makes clear that ethanol fuel production is not being obstructed by current permitting requirements.

**U.S. ETHANOL PRODUCTION CAPACITY BY STATE**  
(millions of gallons per year)

	<u>Online</u>	<u>Expansion</u>	<u>Under Construction</u>	<u>Total</u>
IA	1134.5	95	470	1699.5
NE	543	14.5	491	1048.5
IL	780	57	50	887
SD	475	18	110	603
MN	495.6	8	90	593.6
IN	102		180	282
WI	188		40	228
KS	172.5		40	212.5
MI	50		157	207
MO	110		45	155
CO	43.5	1.5	40	85
ND	33.5		50	83.5
CA	33		35	68
TN	67			67
KY	26.4	9		35.4
NM	30			30
TX			30	30
WY	5			5
OH	3			3
GA	0.4			0.4

Over the long term, STAPPA and ALAPCO do not believe the ethanol fuel industry would be well served by this proposed rule. Allowing uncontrolled or under-controlled facilities to build and operate will only lead to future citizen complaints and the need to retrofit controls at a greater cost. Additionally, as the reputation of these facilities grow and local citizens become increasingly aware of the air quality and nuisance problems associated with them, siting new plants will become more difficult.

In conclusion, STAPPA and ALAPCO recommend that EPA withdraw Option 1 and retain the lower emissions threshold under Option 2. Thank you for considering our comments. If you have any questions, please call contact either of us or Mary Stewart Douglas at 202-624-7864.

Sincerely,



John Paul  
ALAPCO President



Eddie Terrill  
STAPPA President